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10 Attorneys for Qualcomm Technologies,  
Inc.

11 UNITED STATES DISTRICT COURT

12 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

13 PROGRESSIVE SEMICONDUCTOR  
14 SOLUTIONS LLC,

15 Plaintiff,

16 vs.

17 QUALCOMM TECHNOLOGIES,  
18 INC. AND MARVELL  
SEMICONDUCTOR, INC.

19 Defendants.

CASE NO. CV 13-01535-ODW-JEM

QUALCOMM TECHNOLOGIES,  
INC.'S ANSWER TO THE FIRST  
AMENDED COMPLAINT,  
DEFENSES, AND  
COUNTERCLAIMS

JURY DEMAND

Judge: Hon. Otis D. Wright

1 Defendant Qualcomm Technologies, Inc. (“QTI”), through its counsel,  
2 respectfully responds to the Complaint for Patent Infringement filed by Plaintiff,  
3 Progressive Semiconductor Solutions, LLC (“Plaintiff”) as follows:

4 **PARTIES**

5 1. Answering Paragraph 1, QTI is without knowledge or information  
6 sufficient to form a belief as to the allegations in this Paragraph and therefore denies  
7 them.

8 2. Answering Paragraph 2, QTI admits that it is a Delaware corporation  
9 with its principal place of business in San Diego, California. QTI denies all other  
10 allegations set forth in this Paragraph.

11 3. Answering Paragraph 3, QTI is without knowledge or information  
12 sufficient to form a belief as to the allegations in this Paragraph and therefore denies  
13 them.

14 **JURISDICTION AND VENUE**

15 4. Answering Paragraph 4, QTI admits that the Complaint purports to set  
16 forth an action for patent infringement, and that this Court has subject matter  
17 jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). QTI denies all other allegations  
18 set forth in this Paragraph.

19 5. Answering Paragraph 5, QTI admits that it has transacted business  
20 within the Central District of California. QTI denies all other allegations set forth in  
21 this Paragraph.

22 6. Answering Paragraph 6, QTI admits this Court has personal jurisdiction  
23 over QTI for the purpose of this action. QTI denies all other allegations set forth in  
24 this Paragraph.

25 **PATENT INFRINGEMENT**

26 7. Answering Paragraph 7, QTI admits that U.S. Patent No. 6,473,349  
27 (“the ’349 patent”) on its face is titled “CASCODE SENSE AMP AND COLUMN  
28 SELECT CIRCUIT AND METHOD OF OPERATION” and recites an issue date of

1 October 29, 2002. QTI admits that the Complaint purports to attach a true and  
2 correct copy of the '349 Patent. QTI is without knowledge or information sufficient  
3 to form a belief as to the truth of the remaining allegations in this Paragraph and  
4 therefore denies them.

5 8. Answering Paragraph 8, QTI admits that U.S. Patent No. 6,862,208  
6 ("the '208 Patent") on its face is titled "MEMORY DEVICE WITH SENSE  
7 AMPLIFIER AND SELF-TIMED LATCH" and recites an issue date of March 1,  
8 2005. QTI admits that the Complaint purports to attach a true and correct copy of  
9 the '208 Patent. QTI is without knowledge or information sufficient to form a belief  
10 as to the truth of the remaining allegations in this Paragraph and therefore denies  
11 them.

12 9. Answering Paragraph 9, QTI admits that the Complaint purports to  
13 refer to the '349 and '208 patents collectively as the "Patents-in-Suit." QTI is  
14 without knowledge or information sufficient to form a belief as to the truth of the  
15 remaining allegations in this Paragraph and therefore denies them.

16 10. Answering Paragraph 10, QTI is without knowledge or information  
17 sufficient to form a belief as to the truth or falsity of the allegations contained in this  
18 Paragraph and, therefore, denies them.

19 11. Answering Paragraph 11, QTI denies the allegations therein.

20 12. Answering Paragraph 12, QTI denies the allegations therein.

21 13. Answering Paragraph 13, QTI is without knowledge or information  
22 sufficient to form a belief as to the truth or falsity of the allegations contained in this  
23 Paragraph and, therefore, denies them.

24 14. Answering Paragraph 14, QTI admits that Plaintiff purports to reserve  
25 rights to assert additional claims and patents. QTI is without knowledge or  
26 information sufficient to form a belief as to the truth of the remaining allegations in  
27 this Paragraph and therefore denies them.

28 15. Answering Paragraph 15, QTI denies the allegations therein.



1                                    **DEFENSES AND COUNTERCLAIMS**

2            1.        QTI asserts the following defenses set forth below, and in making such  
3 defenses does not concede that it bears the burden of proof as to any such defenses.  
4 Discovery has not yet begun in this matter, thus QTI has not yet fully collected and  
5 reviewed all of the information and materials that may be relevant to the matters and  
6 issues raised herein. Accordingly, QTI reserves the right to amend, modify, and or  
7 expand these defenses and to take further positions as discovery proceeds in this  
8 matter.

9  
10                                   **FIRST DEFENSE**

11                                   **(Invalidity)**

12            2.        Upon information and belief, QTI alleges that each asserted claim of  
13 the '349 and '208 patents is invalid for failure to satisfy the conditions of  
14 patentability as specified under one or more sections of Title 35 of the United States  
15 Code, including, without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112.

16            3.        The asserted claims of the '349 and '208 patents are anticipated under  
17 § 102 or obvious under § 103 in view of prior art that disclosed at least the  
18 following elements: sense amplifiers; cascode stages; bit lines; pass transistors; data  
19 lines; data paths and complementary data paths; differential data signals; sense  
20 enable signals; memory cells; isolation circuits; self-timed storage devices;  
21 unclocked latches; self-timed latches; row decoders; column logic; output buffers;  
22 bitcell arrays.

23            4.        The asserted claims of the '349 and '208 patents are also invalid under  
24 § 112 because, for example, the claims are not supported by the specification's  
25 written description of the invention, the claims do not particularly point out and  
26 distinctly claim the subject matter of the invention, and/or the specification does not  
27 enable any person skilled in the art to make and use the invention.

1 **SECOND DEFENSE**

2 **(Prosecution History Estoppel and Disclaimer)**

3 5. Upon information and belief, by reason of the proceedings in the U.S.  
4 Patent and Trademark Office during the prosecution of the applications resulting in  
5 the patents-in-suit, namely, the admissions, representations, and amendments made  
6 on behalf of the applicants as to those patents, or other patents in the same patent  
7 family, QTI alleges that Plaintiff is estopped from extending the coverage of the  
8 asserted claims in the patents-in-suit, including under the doctrine of equivalents, to  
9 cover the accused products.

10 6. During the prosecution of the '349 patent, the applicant amended the  
11 patent application and made assertions regarding the scope of its claims, including  
12 on June 19, 2002. During the prosecution of the '208 patent, the applicant amended  
13 the patent application and made assertions regarding the scope of its claims,  
14 including on August 17, 2004. These amendments and assertions relate to the  
15 statutory requirements for patentability, and narrowed the scope of claimed subject  
16 matter. Plaintiff is estopped from asserting that the claims of the '349 and '208  
17 patents cover subject matter that was surrendered during prosecution by amendment  
18 and/or argument.

19 **THIRD DEFENSE**

20 **(28 U.S.C. § 1498)**

21 7. Upon information and belief, QTI may sell and/or offer for sale in the  
22 United States the accused products to the United States government or to third  
23 parties who sell the accused products to the United States government. QTI is  
24 therefore entitled to assert 28 U.S.C. § 1498 as a defense to Plaintiff's claims of  
25 patent infringement.

1 **FOURTH DEFENSE**

2 **(No Injunctive Relief)**

3 8. Upon information and belief, to the extent Plaintiff seeks injunctive  
4 relief for alleged infringement, the relief it seeks is unavailable because it does not  
5 make, use, or sell any products that practice any claim of the asserted patents. Any  
6 alleged injury to Plaintiff is neither immediate nor irreparable, and Plaintiff has an  
7 adequate remedy at law.

8 **FIFTH DEFENSE**

9 **(Limitation on Damages)**

10 9. The relief sought by Plaintiff based on QTI's alleged infringement of  
11 the '349 and '208 patents is limited by 35 U.S.C. § 286, which prohibits recovery  
12 for any alleged infringement committed more than six years before the filing of the  
13 Complaint.

14 10. The relief sought by Plaintiff based on QTI's alleged infringement of  
15 the '349 and '208 patents is limited by 35 U.S.C. § 287 because Plaintiff, or its  
16 predecessors, failed to mark its products incorporating the purported inventions of  
17 the '349 and '208 patents with the applicable patent numbers as required by 35  
18 U.S.C. § 287.

19 **QTI'S COUNTERCLAIMS**

20 As counterclaims against Plaintiff, QTI alleges as follows:

21 **JURISDICTION AND VENUE**

22 11. These counterclaims are for declaratory judgments pursuant to  
23 28 U.S.C. §§ 2201 and 2202. The Court has jurisdiction over these counterclaims as  
24 controversy exists by virtue of Plaintiff's claims recited in its Complaint.

25 12. These counterclaims arise under the United States patent laws,  
26 35 U.S.C. § 1 *et seq.* The court has jurisdiction over the subject matter pursuant to  
27 28 U.S.C. §§ 1331 and 1338(a).

1           13. This Court has personal jurisdiction over Plaintiff on the basis that  
2 Plaintiff has submitted itself to the Court's jurisdiction by filing its Complaint in this  
3 Court. The exercise of jurisdiction over Plaintiff would be reasonable.

4           14. Plaintiff has admitted that venue is proper in this judicial district by  
5 virtue of filing its Complaint in this Court.

6                                   **FIRST COUNTERCLAIM**

7                                   **(Declaratory Judgment of Invalidity of the '208 patent)**

8           15. QTI incorporates by reference the responses and allegations set forth in  
9 paragraphs 3-5 of these Defenses and Counterclaims.

10          16. Upon information and belief, QTI alleges that each asserted claim of  
11 the '208 patent is invalid for failure to satisfy the conditions of patentability as  
12 specified under one or more sections of Title 35 of the United States Code,  
13 including, without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112.

14          17. The asserted claims of the '208 patent are anticipated under § 102 or  
15 obvious under § 103 in view of prior art that disclosed at least the following  
16 elements: sense amplifiers; cascade stages; bit lines; pass transistors; data lines; data  
17 paths and complementary data paths; differential data signals; sense enable signals;  
18 memory cells; isolation circuits; self-timed storage devices; unlocked latches; self-  
19 timed latches; row decoders; column logic; output buffers; bitcell arrays.

20          18. The asserted claims of the '208 patent are also invalid under § 112  
21 because, for example, the claims are not supported by the specification's written  
22 description of the invention, the claims do not particularly point out and distinctly  
23 claim the subject matter of the invention, and/or the specification does not enable  
24 any person skilled in the art to make and use the invention.

25          19. QTI seeks a judgment declaring that the asserted claims of the  
26 '208 patent are invalid.

**SECOND COUNTERCLAIM**

**(Declaratory Judgment of Invalidity of the '349 patent)**

20. QTI incorporates by reference the responses and allegations set forth in paragraphs 3-5 of these Defenses and Counterclaims.

21. Upon information and belief, QTI alleges that each asserted claim of the '349 patent is invalid for failure to satisfy the conditions of patentability as specified under one or more sections of Title 35 of the United States Code, including, without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112.

22. The asserted claims of the '349 patent are anticipated under § 102 or obvious under § 103 in view of prior art that disclosed at least the following elements: sense amplifiers; cascade stages; bit lines; pass transistors; data lines; data paths and complementary data paths; differential data signals; sense enable signals; memory cells; isolation circuits; self-timed storage devices; unclocked latches; self-timed latches; row decoders; column logic; output buffers; bitcell arrays.

23. The asserted claims of the '349 patent are also invalid under § 112 because, for example, the claims are not supported by the specification's written description of the invention, the claims do not particularly point out and distinctly claim the subject matter of the invention, and/or the specification does not enable any person skilled in the art to make and use the invention.

24. QTI seeks a judgment declaring that the asserted claims of the '349 patent are invalid.

**THIRD COUNTERCLAIM**

**(Declaratory Judgment of Non-infringement of the '208 patent)**

25. QTI incorporates by reference the responses and allegations set forth in paragraph 2 of these Defenses and Counterclaims.

26. QTI does not infringe and has not infringed, directly, literally or by the doctrine of equivalents, any valid and enforceable claim of the '208 patent and believes that Plaintiff's Complaint has been filed without good cause.

1           27. QTI seeks a judgment declaring that QTI does not infringe directly,  
2 literally or by the doctrine of equivalents, and has not infringed any asserted claim  
3 of the '208 patent.

4                                   **FOURTH COUNTERCLAIM**

5                   **(Declaratory Judgment of Non-infringement of the '349 patent)**

6           28. QTI incorporates by reference the responses and allegations set forth in  
7 paragraph 2 of these Defenses and Counterclaims.

8           29. QTI does not infringe and has not infringed, directly, literally or by the  
9 doctrine of equivalents, any valid and enforceable claim of the '349 patent and  
10 believes that Plaintiff's Complaint has been filed without good cause.

11           30. QTI seeks a judgment declaring that QTI does not infringe directly,  
12 literally or by the doctrine of equivalents, and has not infringed any asserted claim  
13 of the '349 patent.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant prays for judgment and relief as follows:

A. Dismissing Plaintiff's Complaint with prejudice, and denying Plaintiff any relief;

B. Declaring that the asserted claims of the '208 patent and the '349 patent are invalid;

C. Declaring that QTI has not infringed the asserted claims of the '208 patent and '349 patents;

D. Permanently enjoining Plaintiff from asserting against QTI any claim of patent infringement with respect to the '208 patent or the '349 patent;

E. Entering judgment that this is an exceptional case under 35 U.S.C. § 285 and awarding QTI its costs and attorneys' fees; and

F. Awarding QTI such further and additional relief as the Court deems just and proper.

**JURY DEMAND**

QTI demands a trial by jury on all issues so triable.

DATED: November 22, 2013      QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

By /s/ Justin Griffin

David A. Nelson (*pro hac vice* pending)

Justin C. Griffin

Marc L. Kaplan (*pro hac vice* pending)

Attorneys for Qualcomm Technologies, Inc.

**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 865 South Figueroa Street, 10th Floor, Los Angeles, California 90017-2543.

On November 22, 2013, I served true copies of the following document(s) described as **QUALCOMM TECHNOLOGIES INC.'S ANSWER TO THE FIRST AMENDED COMPLAINT, DEFENSES, AND COUNTERCLAIMS** on the interested parties in this action as follows:

**VIA US MAIL & EMAIL**

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**VIA EMAIL**

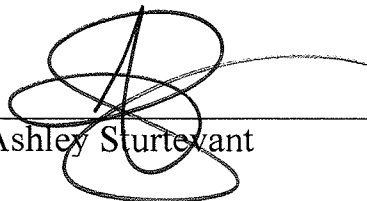
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☒ **BY MAIL:** I enclosed the foregoing into sealed envelope(s) addressed as shown above, and I deposited such envelope(s) in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

☒ **BY ELECTRONIC MAIL TRANSMISSION:** By electronic mail transmission from candyliao@quinnemanuel.com by transmitting a PDF format copy of such document(s) to each such person at the e mail address listed below their address(es). The document(s) was/were transmitted by electronic transmission and such transmission was reported as complete and without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 22, 2013, at Los Angeles, California.

  
\_\_\_\_\_  
Ashley Sturtevant